



PERSONNEL AND
READINESS

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26 FEB 2020

MEMORANDUM FOR SECRETARY OF THE ARMY
SECRETARY OF THE NAVY
SECRETARY OF THE AIR FORCE

SUBJECT: Adoption of Punitive General Orders to Address Use of Hemp Products

Substance misuse by Service members is a safety and readiness issue, and the Department must remain vigilant in addressing emerging threats, including those that come from new products and sources.

On December 20, 2018, the President signed into law the Agriculture Improvement Act of 2018, Public Law 115-334, excluding hemp products from the definition of marijuana and legalizing tetrahydrocannabinols in such products. Specifically, hemp products may legally contain up to 0.3 percent delta-9-tetrahydrocannabinol (THC) on a dry weight basis. However, THC in marijuana remains illegal. This has resulted in two sources of THC, one legal and the other not.

These legal changes and the resulting introduction of hemp products containing up to 0.3 percent THC in the marketplace create a serious risk to the viability of the military drug testing program for a number of reasons. First, there are now numerous products legally sold in the United States, the normal use of which could cause a positive urinalysis result in routine military drug testing. Second, the U.S. Food and Drug Administration (FDA) does not determine or certify the THC concentration of commercially-available hemp products, such as cannabidiol (also known as CBD), and these products can contain appreciable levels of THC, yet omit any reference to THC on the product label and/or list an inaccurate THC concentration. Consequently, Service members cannot rely on the packaging and labeling of hemp products regarding whether the amount of THC contained in the product could cause a positive urinalysis result. Third, with new or rebranded products being introduced to the marketplace on a near-constant basis, it is neither reasonable nor practical for the DoD or the Military Departments to maintain, validate, or distinguish on an individual basis a list of those specific hemp products that may or may not cause a positive urinalysis result. Since it is *not* possible to differentiate between THC derived from legal hemp products and illicit marijuana, and these products could cause or contribute to a THC positive urinalysis result, I find that the use of hemp products could effectively undermine the Department's ability to identify illicit THC use.

Accordingly, I find that protecting the integrity of the drug testing program requires the prohibition of the use of all hemp products, subject to the exclusions set out in this memorandum, even though such a prohibition will, in some instances, extend to products the normal use of which could not cause a positive urinalysis result. I specifically find a military necessity to require a prohibition of this scope to ensure the military drug testing program continues to be able to identify the use of marijuana, which is prohibited, and to spare the U.S.

military the risks and adverse effects marijuana use has on the mission readiness of individual Service members and military units.

By March 1, 2020, the Military Departments are hereby directed to issue punitive general orders or regulations enforceable under Article 92 of the Uniform Code of Military Justice (10 U.S.C. § 892) prohibiting the use by active duty Service members and the members of the Reserve Components of products made or derived from hemp, including CBD, regardless of the product's THC concentration, claimed or actual, and regardless of whether such products may lawfully be bought, sold, and used under the laws applicable to civilians, and regardless of the route of administration or use. The order will expressly prescribe that violations of the order constitute a general intent offense. The order will also provide that it does not prohibit use: (1) pursuant to legitimate law enforcement activities; (2) by authorized personnel in the performance of medical duties; or (3) without knowledge that the product was made or derived from hemp, including CBD, where that lack of knowledge is reasonable. The order/regulation will not prohibit the use of durable goods containing hemp, such as rope or clothing. The order/regulation will exclude ingestion, consumption, or use of cannabinoid formulations approved as drugs by the FDA for which the Service member has a valid prescription, such as dronabinol (Marinol®, Syndros®) and cannabidiol (Epidiolex®).

My point of contact for this action is CAPT Eric R. Welsh, who may be reached at (703) 697-8690, or eric.r.welsh2.mil@mail.mil



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cc:
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